

EXHIBIT 2

FILED
U.S. DISTRICT COURT-
EASTERN DISTRICT OF LA

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MARK A. D. WHYTE
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE THE BABCOCK & WILCOX
CO., ET AL.

CIVIL ACTION

NO: 00-0558
Bankruptcy Case
No. 00-10992

SECTION: "R" (5)

ORDER AND REASONS

The debtors have filed a Motion for Entry of an Order Establishing a Bar Date, Approving the Proof of Claim Forms and Approving the Form and Manner of Notice. The Court rules on debtors' motion as follows.

I. BACKGROUND

On February 22, 2000, debtors, the Babcock & Wilcox Co., Diamond Power International, Inc., Babcock & Wilcox Construction Co., Inc. and Americon, Inc., filed voluntary Chapter 11 petitions. Debtors seek protection under Chapter 11 as a result of the mass of asbestos liability lawsuits and claims pending against them. Although debtors did not manufacture asbestos,

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much of the information sought on the form has already been gathered by the substantial number of claimants who have already completed the *Celotex* and *Manville* forms, thereby further reducing the burden on claimants to complete it.

The Committee opposes debtors' Revised Proof of Claim Form, asserting that debtors have failed to establish the viability of their summary judgment theories or how the extensive information sought on the form is necessary to test them. They further argue that the time and expense involved in completing the form is prohibitive and will deter claimants from filing claims.

The Court finds that the proposed claim form is unnecessarily detailed and would amount to an undue burden on parties who wish to assert claims. The 21-page *Manville Trust* form relied on by debtors is not a proof of claim form required to meet a bar date but a claim form used by the trust to evaluate each claim individually for the purposes of liquidation and payment. The Court is therefore not persuaded that the extensive information requested in the *Manville Trust* form is an appropriate model for a proof of claim that will subject claimants to a bar date. Further, the Court is not convinced on this record that the burdensomeness of the proposed form is minimized because a substantial overlap exists between the

claimants in this case and those in Celotex, who filed claims to satisfy a March 1996 bar date, more than four years ago. This follows because the debtors settled a substantial number of claims prior to filing bankruptcy.

The Court therefore finds that the claim form must be substantially modified. As indicated, disputed claimants must establish, at a minimum, the ground on which they base debtors' liability to them. In this case, that entails establishing a claimant's exposure to asbestos from debtors' products and the injuries that resulted from that exposure. The Court will therefore allow debtors to ask questions that go to this prima facie evidence of liability. After carefully reviewing the parties' submissions, the Revised Proof of Claim Form, the Celotex Proof of Claim Form and Official Form 10, the Court orders the debtors to revise the proof of claim form as instructed below.

a. Part 1: Identifying Information

The Court will not require claimants to submit an official death certificate if the injured party is deceased. Nor will the Court require claimants to submit all medical reports. Diagnostic reports may, however, be required.